

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JAMES A. TAYLOR,

Plaintiff,

v.

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

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Civil No. 11-093-JPG-CJP

MEMORANDUM AND ORDER

This matter comes before the Court on Magistrate Judge Philip M. Frazier's Report and Recommendation ("R & R") (Doc. 16) of 8/12/2010, wherein it is recommended that Defendant's Motion to Dismiss (Doc. 10) be granted. Plaintiff James Taylor did not object to the R & R. After reviewing a magistrate judge's report and recommendation, the Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in the report. Fed. R. Civ. P. 72(b). The Court has discretion to conduct a new hearing and may consider the record before the magistrate judge anew or receive any further evidence deemed necessary. *Id.*

The Court must review *de novo* the portions of the report to which specific written objections are made. *Id.* "If no objection or only partial objection is made, the district court Judge reviews those unobjected portions for clear error." *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999). Accordingly, because James Taylor failed to object, the Court will be reviewing Judge Frazier's R & R for clear error, instead of applying a *de novo* standard of review.

After reviewing the Report and Recommendation prepared by Magistrate Judge Phillip M. Frazier, the Court finds there is no clear error.

Accordingly, the Court hereby **ADOPTS** the R & R (Doc.16) **in its entirety**, whereby the Court **GRANTS** the Defendant's, Michael J. Astrue Commissioner of Social Security, Motion to Dismiss with prejudice. (Doc. 10).

The Court directs the Clerk of Court to enter judgment accordingly.

IT IS SO ORDERED.

DATED: September 19, 2011.

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE